

REMARKS

Applicants have received and reviewed an Office Action dated September 14, 2007 for the present application. By way of response, Applicants have canceled claim 5 without prejudice, amended claims 1, 2 and 15, and presented new claims 16-19. No new matter has been added. Claims 1-4 and 6-19 are currently pending. Applicants submit that the pending claims are supported by the specification.

The amendment to claim 1 and new claims 16-19 are supported throughout the specification including at least at page 13, line 23, through page 14, line 18. page 16, lines 17-30, originally filed claims 2 and 5, and Figures 4A, 4B, 7A, and 7B. Claim 19 differs from the other independent claims in this and the parent application by reciting the controlled valve system.

For the reasons given below, Applicants submit that the pending claims are in condition for allowance and notification to that effect is earnestly solicited.

Rejections of Claims Under § 102(b) and 103(a)

The Examiner rejected claims 1-2 and 5-15 under 35 U.S.C. § 102(b) as being anticipated by Triassi et al. (EP 0774292). The Examiner rejected claims 3-4 under 35 U.S.C. § 103(a) as obvious over Triassi et al. (EP 0774292). Although these rejections have not been raised against the newly presented claims, they are discussed insofar as they might apply. Applicants respectfully traverse these rejections.

The Triassi et al. reference discloses an apparatus including a container opener 22 having the shape of an upwardly directed broadhead arrowhead, having vanes 19 mounted to a core 21 (the Triassi et al. reference at column 7, lines 36-39). The upwardly pointing arrowhead includes a small aperture at its single uppermost point through which an exhaust 90 projects fluid into a container (the Triassi et al. reference at column 9, line 53 through column 10, and at Figures 4 and 7). The content of the container drains around container opener 22 as shown by arrows 98 in Figure 4 (Id.).

In contrast, the presently claimed apparatus includes a hollow contoured spike including beveled surfaces, spike leg, and a plurality of points, the points being asymmetrically arranged on the hollow contoured spike (claims 1 and 15) or including point, beveled surfaces, and spike leg (claim 19). An embodiment of such a hollow contoured spike is illustrated in Figures 4A and 4B of the present application. The container opener of the Triassi et al. reference does not

include at least the point, beveled edges, and spike leg of the presently claimed apparatus. Thus, the Triassi et al. reference does not teach or suggest the presently claimed invention.

By way of further contrast, the hollow contoured spike of the presently claimed apparatus is configured to break and push aside seal from container opening. Figure 3 of the present application illustrates an embodiment of a pushed aside seal. The container opener of the Triassi et al. reference merely “punctures the cap” (the Triassi et al. reference at column 7, lines 39-42 and 47-51). Thus, the Triassi et al. reference does not teach or suggest the presently claimed invention.

In addition, the present hollow contoured spike defines a cavity, which is configured to allow composition to pass through the hollow contoured spike. In contrast, the content of the container in the apparatus of the Triassi et al. reference drains around container opener 22 as shown by arrows 98 (Figure 4 and column 10, lines 7-11). Thus, the Triassi et al. reference does not teach or suggest the presently claimed invention.

Accordingly, based on the foregoing differences, Applicants respectfully submit that the Triassi et al. reference neither teaches nor suggests the presently claimed apparatus and method, and withdrawal of these rejections is respectfully requested.

Obviousness-Type Double Patenting Rejection

The Examiner provisionally rejected claims 1-15 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 and 6-15 of copending Application No. 10/435,351. In response, Applicants have submitted herewith a Terminal Disclaimer in order to obviate this rejection. Applicants respectfully request that this rejection be withdrawn.

Summary

In summary, Applicant submits that each of claims 1-4 and 6-19 is in condition for allowance, and notification to that effect is earnestly solicited. The Examiner is invited to contact Applicants’ undersigned representative at the telephone number listed below, if the Examiner believes that doing so will expedite prosecution of this patent.

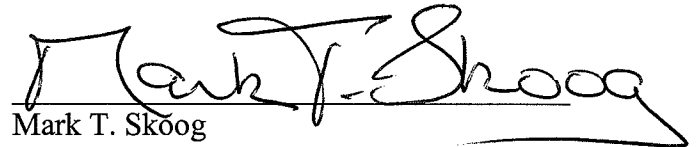
USSN 10/826,895
Reply to Office Action dated 9/14/07

Please charge any additional fees or credit any overpayment to Merchant & Gould P.C.,
Deposit Account No. 13-2725.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: 14 Jan '08


Mark T. Skoog
Reg. No. 40,178

MTS:kf